

VIRGINIA:

IN THE CIRCUIT COURT OF SPOTSYLVANIA COUNTY

COMMONWEALTH OF VIRGINIA

v.

LEE BOYD MALVO,

Black male

DOB: 02/18/1985

SSN : _____

Defendant

PLEA AGREEMENT

1. My name is Lee Boyd Malvo and my age is 19 years.
2. I am represented by counsel whose names are Craig S. Cooley, Esquire and Michael S. Arif, Esquire, and I am satisfied with their services as my attorneys.
3. I have received a copy of the indictments before being called upon to plead, and I have read and discussed it with my attorney, and believe that I understand the charges against me in this case. I am the person named in the indictment. I have told my attorney all the facts and circumstances, as known to me, concerning the case against me. My attorney has discussed with me the nature of the charge, has explained to me the elements of the offense, and has advised me as to any possible defense I might have in this case. I have had ample time to discuss the case and all possible defenses with my attorney.
4. **STIPULATION OF FACTS:** I agree to the following summary of the Commonwealth's evidence against me (which I stipulate can all be proven by the Commonwealth) in the foregoing case, and I request that the Court accept this

summary in lieu of presentation of any evidence by the Commonwealth. I further stipulate that the Commonwealth's evidence constitutes a *prima facie* case in the instance of the crime with which I am charged.

SUMMARY:

Using numerous eye-witnesses, police officers, as well as expert witnesses, the Commonwealth would establish evidence of the following chain of inter-connected crimes, which evidence is summarized as follows:

On October 24, 2002, while armed with a search warrant, F.B.I. agents seized an older model faded blue Chevrolet Caprice automobile and arrested the two persons found inside of it - Lee Boyd Malvo, age 17, and John Allen Muhammad, age 42. Also found inside the vehicle was a Bushmaster .223 caliber assault rifle and scope, which rifle was hidden behind the rear seat. The rear seat of the car had been modified so that it would fold forward, allowing access to the trunk area, and a hole had been bored into the rear trunk of the car near the license plate to enable a person to slide a rifle barrel through the hole while lying in the trunk of the automobile. Also found in the car was a laptop computer belonging to Paul La Ruffa of Clinton, Maryland.

This arrest by the F.B.I. brought to the end a series of events commencing September 5, 2002 through October 22, 2002, during which thirteen people had been shot, eight fatally, between Prince George's County, Maryland and Hanover County, Virginia, in a string slayings that had come to be known as "the sniper slayings". Throughout this period, a person claiming to be the sniper had repeatedly left telephone messages and notes to the police and the media demanding ten million dollars to stop the slayings, which slayings are summarized, as follows:

- On September 5, 2002, Paul La Ruffa, age 55, was shot six times with a 22-caliber handgun and robbed of his laptop computer and \$3,500 outside of his Pizzeria in Clinton, Maryland.
- On September 15, 2002, Muhammad Rashid, age 32, was shot in the abdomen at close range with the same 22-caliber pistol that was used in the La Ruffa robbery. Rashid was also robbed of his wallet as he was closing a liquor store in Prince George's County, Maryland.
- On October 3, 2002, four more fatal shootings occurred. Premkumar Walekar, age 54, was fatally shot in the chest while putting gasoline in his cab at a Mobil station in Aspen Hill, Maryland. A ballistics test of the Bushmaster rifle recovered in Muhammad and Malvo's car confirmed that that rifle was used to kill Mr. Walekar.

- Also on October 3, 2002, Sarah Ramos, age 34, was fatally shot in the head while sitting on a shopping center bench near Leisure World in Silver Spring, Maryland. Ballistic tests also established that the same Bushmaster rifle killed Ms. Ramos.
- Also on October 3, 2002, Lori Lewis Rivera, age 25, was fatally shot in the back while vacuuming an automobile at a Shell gasoline station in Kensington, Maryland. Again, ballistic tests established that the same Bushmaster rifle was used to kill Ms. Rivera.
- Continuing on October 3, 2002, Pascal Charlot, age 72, was fatally shot below the neck at busy intersection in northwest Washington, D.C. Ballistic tests on the same Bushmaster rifle established that it was used to kill Mr. Charlot. Additionally, eyewitnesses saw a the faded blue Chevrolet Caprice near the scene of the shooting.
- On October 4, 2002, **Caroline Seawell**, age 43, was shot in the back as she loaded her car outside the Michael's craft store near Spotsylvania Mall in Spotsylvania County, Virginia. Ballistic tests, a Certificate of Analysis dated 11/5/02, which is attached hereto as Commonwealth's Exhibit "1", established that Mrs. Seawell was shot with the same Bushmaster rifle seized from Muhammad and Malvo's car. Additionally, an eyewitness saw the faded blue Caprice at the shooting scene.
- On October 7, 2002, Iran Brown, age 13, was shot in the abdomen outside of the Benjamin Tasker Middle School. Ballistic tests established that he was shot with the same Bushmaster rifle. Additionally, at the scene of the shooting, a shell casing matching the rifle was found.
- On October 9, 2002, Dean Harold Meyers, age 53, was fatally shot in the head while he pumped gas at a Sunoco station in Prince William County, Virginia. Ballistic tests established that Mr. Meyers was shot with the same Bushmaster rifle seized from Muhammad and Malvo. Additionally, a Baltimore area map was found at the shooting scene with both Muhammad and Malvo's fingerprints on it. (See Summary of ATF lab fingerprint evidence attached as Commonwealth's Exhibit "4").
- On October 11, 2002, **Kenneth Bridges**, age 53, was fatally shot in the upper back, while pumping gasoline at an Exxon station near the Massaponax / I-95 interchange in Spotsylvania County, Virginia. Ballistic tests established that Mr. Bridges was shot with the same Bushmaster rifle seized from Muhammad and Malvo. (See ATF lab certificate of ballistics forensic analysis dated 11/7/02 attached as Commonwealth's Exhibit "2").

- October 14, 2002, Linda Franklin, age 47, was fatally shot in the head outside a Home Depot store in Fairfax County, Virginia. Again, ballistic tests positively connected the same Bushmaster rifle to that fatal shooting.
- On October 19, 2002, Jeffrey Hopper, was shot in the abdomen outside a Ponderosa steakhouse in Ashland, Virginia. Ballistic tests established that Mr. Hopper was shot with the same Bushmaster rifle. A shell casing was found near the shooting scene. Near the shell casing was found a CinnaRaisins bag with Lee Boyd Malvo's DNA on it. Also left at the scene were extortion notes in plastic bags regarding Muhammad and Malvo's ten million dollar demand, which had earlier been telephoned into the police. (See a copy of the notes attached as Exhibit 6; see also summary of ATF lab DNA evidence attached as Commonwealth's Exhibit "3").
- On October 22, 2002, Conrad E. Johnson, age 35, was fatally shot under the rib cage, while standing in the doorway of his public bus in Aspen Hill, Maryland. Ballistic tests established that Mr. Johnson was shot with the same Bushmaster rifle as the other victims. A duffel bag was found at the crime scene with one shooter's glove left behind. The matching shooter's glove was found in the Chevrolet Caprice after Muhammad and Malvo's arrest. Additionally, another extortion note in a plastic bag was left at the crime scene. Malvo's DNA was found on the plastic bag containing that note and also in the shooter's glove left at the scene. (See a copy of the note attached as Exhibit 7; also see the Summary of ATF lab DNA evidence attached as Exhibit "3").

A Bureau of Alcohol, Tobacco & Firearms (ATF) fingerprint expert would testify that a fingerprint matching Lee Boyd Malvo's left fingerprint was found on the grip of the Bushmaster rifle seized from Muhammad & Malvo's car. (See summary of ATF lab fingerprint evidence attached as Commonwealth's Exhibit "4").

Additionally, the Commonwealth would produce the testimony of Detective June Boyle of the Fairfax County Police Department, who would testify that, on November 7, 2002, Lee Boyd Malvo was first taken into custody on Virginia's capital murder charges arising from the Fairfax crime. Malvo was advised of his rights under Miranda at approximately 5:55 P.M. that day, which rights Malvo waived, stating that he wanted to talk to Detective Boyle and Detective Garrett without an attorney and indicating that he would answer only the questions that he decided to answer. Malvo signed a written Miranda waiver, a copy of which is attached hereto as Commonwealth's Exhibit "5".

Malvo then gave an extensive statement to those detectives, during which he boasted that he and his "father", John Allen Muhammad, had acted as a sniper team, randomly shooting people up and down the I-95 corridor in Maryland and Virginia, in an effort to extort ten million dollars from the "media and the

government". Malvo boasted that he had personally performed ten of the thirteen shootings, stating that he did so either lying in the trunk of the car while shooting out of the bored hole in the trunk, or sometimes from a shooting position outside of the automobile, but always using the Bushmaster rifle. When he was acting as the sniper, Muhammad would be the spotter, and would tell him when the shot was clear and which shot to take. Sometimes they would trade positions, and Muhammad would do the shooting and he would be the spotter.

Malvo admitted that he was the one who shot Caroline Seawell on October 4, 2002 and Kenneth Bridges on October 11, 2002 in Spotsylvania County, while Muhammad acted as the sniper team spotter and get-away driver on both occasions.

5. My attorney has advised me that the offense charges as follows:
 - CAPITAL MURDER, in violation of Virginia Code Section 18.2-46.4.
Punishment: (Class 1 Felony) Death, or imprisonment for a term of life and a fine not to exceed \$100,000.
 - ATTEMPTED CAPITAL MURDER, in violation of Virginia Code Section 18.2-25.
Punishment: (Class 2 Felony) Imprisonment for life, or for any term not less than 20 years and a fine not to exceed \$100,000.
 - AGGRAVATED MALICIOUS WOUNDING, in violation of Virginia Code Section 18.2-51.1(A).
Punishment: (Class 2 Felony) Imprisonment for life, or for any term not less than 20 years and a fine not to exceed \$100,000.
 - 2 Counts - USE OF A FIREARM IN COMMISSION OF A FELONY, in violation of Virginia Code Section 18.2-53.1.
Punishment: (1st conviction) 3 years imprisonment.
(2nd conviction) 5 years imprisonment.
Said sentences shall not be suspended in whole or in part.
 - CONSPIRACY TO COMMIT CAPITAL MURDER, in violation of Virginia Code Section 18.2-22.
Punishment: (Class 3 Felony) A term of imprisonment of not less than 5 years nor more than 20 years and a fine of not more than \$100,000.

6. I understand that I may, if I so choose, plead "not guilty" to any charge against me, and that if I do plead "not guilty" the Constitution guarantees me (a) the right to a speedy and public trial by jury; (b) the process of the Court to compel the production of any evidence and attendance of witnesses in my behalf; (c) the right to have the assistance of a lawyer at all stages of the proceedings; (d) the right against self-incrimination; and (e) the right to be confronted by my accuser.

7. I understand that by entering an "Alford plea", which is a form of a guilty plea pursuant to NC v. Alford, 400 U.S. 25 (1970), I waive my right to an appeal and, although I am not conceding factual guilt, I am admitting the Commonwealth has sufficient evidence to convict me, and that it is in my best interest to enter this plea. The only remaining issue to be decided by the Court is punishment.

8. I understand that the Commonwealth's Attorney has agreed that the following specific punishment is the appropriate disposition in this case:

- A. With the assent of Mrs. Caroline Seawell and the widow of Kenneth Bridges, the Commonwealth agrees that, upon the defendant's guilty / "Alford plea" to the indictments charging him with the Capital Murder of Kenneth Bridges, and Attempted Capital Murder of Caroline Seawell, as well as the 2 counts of Use of Firearm in commission of those felonies, to *nolle prosequi* all remaining indictments against him in Spotsylvania County.
- B. It is further understood and agreed that the defendant will be sentenced to life in prison without parole for the Capital Murder of Kenneth Bridges; to life in prison without parole for the Attempted Capital Murder of Caroline Seawell; to 3 years in prison for Use of a Firearm in the Seawell shooting; and to 5 years in prison for Use of a Firearm in the Bridge's murder.

9. I understand that the Court may accept or reject this plea agreement. I understand that if the Court rejects this agreement, I will be permitted to withdraw my "Alford plea" and plead not guilty if I so desire, and if I do not withdraw my "Alford plea" neither side is bound by this agreement and the Court may impose any sentence within the limits set forth in Paragraph 5, which disposition may be less favorable to me than is contained in this agreement.

10. I declare no officer or employee of the State or County or Commonwealth's Attorney's office, or anyone else, has made any promise to me except as contained in this agreement.

11. After having discussed the matter with my attorney, I do freely and voluntarily enter an "Alford plea" to the offenses of **CAPITAL MURDER, ATTEMPTED CAPITAL MURDER, and 2 COUNTS OF USE OF A FIREARM IN COMMISSION OF A FELONY**, and waive my right to a trial by jury and request the Court to hear all matters of law and fact.

Signed by me in the presence of my attorney on this _____ day of _____, 2004.

LEE BOYD MALVO
Defendant

CERTIFICATE OF DEFENDANT'S COUNSEL

The undersigned attorney for the above-named defendant, after having made a thorough investigation of the facts relating to this case, do certify that I have explained to the defendant the elements of the charges in this case; and that the defendant's "Alford plea" is voluntarily and understandingly made.

CRAIG S. COOLEY
Counsel for the defendant

MICHAEL S. ARIF
Counsel for the defendant

CERTIFICATE OF COMMONWEALTH'S ATTORNEY

The above accords with my understanding of the facts in this case, and I further certify that, when applicable upon the written request of the victim, I have consulted with such victim(s) and I have notified him/her of the right to be present at this hearing (unless an exception is marked below), pursuant to Section 19.2-11.01 of the Code of Virginia.

Exceptions:

1. Victim unavailable due to incarceration: _____
2. Victim unavailable due to hospitalization: _____
3. Victim unavailable due to failure to appear when subpoenaed: _____
4. Victim unavailable due to change of address without notice: _____
5. Victim unavailable due to other reason as set forth here: _____
_____.

COMMONWEALTH OF VIRGINIA

By _____
WILLIAM F. NEELY
Commonwealth's Attorney

The Court, being of the opinion that the Alford plea and waiver of jury trial are voluntarily made, and that the defendant understands the nature of the charges and the consequences of said "Alford plea", doth accept the same and concur therewith.

Filed and made a part of record this _____ day of _____,
2004.

Judge